

July 17, 1997

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Office of the Secretary  
Federal Communications Commission  
Room 222  
1919 M Street NW  
Washington, DC 20554

RE: Request for Partial Reconsideration and Clarification,  
Report & Order, CC Docket No. 96-45

Pursuant to Section 1.106 of the Commission's Rules, the National Association of State Telecommunications Directors ("NASTD") hereby submits the instant request for partial reconsideration and clarification of the Universal Service Report and Order, CC Docket No. 96-45 (May 7, 1997)("Order").<sup>1</sup>

NASTD is an organization made up of state government telecommunications managers from all 50 states, the District of Columbia and the U.S. Territories. These managers administer the state organizations that provide state government communications facilities, systems and services for state agencies and other public entities including hospitals, schools and libraries.

In carrying out their roles as telecommunications providers, these state organizations function as aggregators of service volumes for all eligible users of these services, obtaining term and volume discounts based on total requirements. In most cases, these volume discounted services are bundled and provided to customers (state agencies, schools and libraries) as a complete turnkey service. These services are procured through the competitive bid process, thus resulting in the best possible price (pre-discounted) for our users.

In order to provide the Commission with a better understanding of how most state telecommunications organizations operate, the following is provided as an example of how a service is commonly procured, bundled and offered to eligible schools and libraries:

Wide Area Network Service: This is a statewide, multi-protocol, router based wide area network supporting intrastate, Intranet connectivity. In addition, it provides access to the

<sup>1</sup> 62 Fed. Reg., 32,862 (June 17, 1997).

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Internet via high capacity ISP access concentrated through key network hubs. The routers, IntraLATA local loops, connections from the hubs to the end users premises, the trunk connections between hubs, and the high capacity Internet access out of the key hubs are competitively procured according to state procurement laws and guidelines through separate procurement efforts.

Each procurement is a bulk (high volume) procurement. These individual components are then bundled together by the state telecommunications organization to deliver a cost-effective, turnkey service to those end users (schools and libraries) who choose to participate in the consortium. Multiple vendors/carriers provide the individual components.

Some components can be end-user specific (e.g. local loop), while other components are shared among multiple users (e.g. hubs, trunking between hubs, Internet access). The total cost of the network is recovered from the end-users through standard rates developed utilizing cost allocation routines that comply with federal guidelines.

Given the May 7, 1997 USF rules, our main concerns are: (1) Do standard rates charged by state telecommunications organizations to end users (schools and libraries) qualify as pre-discounted rates against which the eligible entity discounts may be applied? (2) Will state telecommunications organizations be permitted to pay carriers full price for the services they procure, and apply for USF reimbursement as the agent for the consortium's members in lieu of the carriers providing the services? If so, can the discounts be passed through to the eligible end-user entities?

In reviewing these issues, we ask that the Commission consider the following:

Paragraph 800 of the Order states, "...government entities that purchase telecommunications services in bulk on behalf of themselves, e.g., state networks for schools and libraries, ...would be purchasing services for local or state governments or related agencies. Therefore, we find that such government agencies serve only their internal needs." Order at ¶800.

Based on this language, the FCC clearly acknowledges that when schools and libraries receive Internet access through a state network, the arrangement constitutes a consortium of users. Within the consortium, the state is acting as the agent who is bundling the service for the benefit of the end users. Given how most state networks are assembled (see example above), it would be impractical to break the services down into individual elements for purposes of identifying how much discount applies to each component.

In the Order, the Commission rejected the proposal of GTE Corporation that carriers be permitted to demand full payment from schools and libraries, who would then secure direct reimbursement from the fund administrator. Order at ¶586. The Commission based its decision on the belief that such an arrangement would generate tens of thousands of individual applications from the end users, and cause them to suffer disruptions of needed cash flow. Id. In an effort to bolster administrative simplicity and minimize the financial burden placed on schools and libraries, the Commission determined that the carrier was in the best position to apply to the administrator for reimbursement from the Fund.

NASTD supports the Commission's efforts to streamline the universal service funding process to the greatest possible extent. However, as demonstrated above, situations exist in which administrative efficiency can best be achieved by permitting a state telecommunications organization to apply directly to the fund administrator for the discount on services provided to schools and libraries within its consortium. Therefore, we respectfully submit that state telecommunications organizations should be permitted to apply for USF reimbursement as the agent for the consortium, and pass the discounts through to the eligible entities. We also submit that the ability of a state to seek reimbursement through the USF on behalf of its schools and libraries should be an option. States wishing to structure their arrangements so that the carriers that supply the relevant services apply to the USF should be permitted to do so.

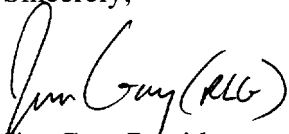
Following are other issues that we request be addressed and/or clarified:

- A clarification is requested regarding the "voluntary extension of contracts" (Order at ¶¶ 545-549). Many states enter into contracts with a one-year initial term and multiple one-year extensions. This is required due to state limitations on committing current funds to future years' operating expenses. We request that such arrangements not be treated as "voluntary extensions of contracts."
- A clarification is requested regarding the legitimacy of the inclusion of private entities in shared networks using off-tariff arrangements. If the private entity is one that has historically been offered discounts in compliance with FCC and state PUC requirements, we submit that it is legitimate for them to be included in a consortium that utilizes off-tariff arrangements and continue to receive discounts. A private college is an example of such an entity. We understand and fully support the FCC's objective of preventing unrelated private sector entities (e.g., the county bank, a local retailer, etc.) from participating in such a consortium.
- The Commission is encouraged to ensure that it does not require those eligible for USF reimbursement to follow a procurement process which is in conflict with established state statutory requirements governing their procurement of goods and services. Paragraph 481 of the Order supports this position by "...recommend[ing] that the Commission permit schools and libraries "maximum flexibility" to take service quality into account and to choose the offering or offerings that meet their needs "most effectively and efficiently," where this is consistent with other procurement rules under which they are obligated to operate." Order at ¶481. Also, Paragraph 482 of the Order states, "...Thus, although we do not impose bidding requirements, neither do we exempt eligible schools and libraries from compliance with any state or local procurement rules, such as competitive bidding

specifications, with which they must otherwise comply." Order at ¶482.

In closing, state telecommunications organizations provide a valuable service by aggregating purchases on behalf of their users, and providing consolidated networks which meet the telecommunications needs of entities eligible for universal service fund support. We hope that the Commission recognizes our unique role in the provision of these services, and provides a mechanism that will allow us to participate in the least burdensome manner in the USF program.

Sincerely,

A handwritten signature in cursive script that reads "Jim Gay (RLG)".

Jim Gay, President

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